

C. Remarks

In the Office Action, claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,991,749 (Morrill).

Petition for Extension of Time

Applicant encloses herewith a petition under 37 CFR 1.136(a) to extend the time period for submitting the present response by three months. The Office is hereby authorized to charge the fee set forth under 37 CFR 1.17(a)(3), large entity, in connection with this petition, as well as any other fees necessary for consideration of this submission, to Deposit Account No. 11-1110.

Claim Amendments

Claim 1 has been amended to recite that “the account management server is configured to transfer ...” Support for this amendment is found, for example, at paragraphs [0046] to [0050] and FIG. 5 of the specification and drawings as filed.

Claim 11 has been amended to correct an inadvertent typographical error.

The preamble of claim 19 has been amended to recite “[a] computer-readable medium having instructions stored thereon, which, when executed by a processor, cause the processor to...” The body of claim 19 has been amended to be consistent with the amended preamble. Support for this amendment is found, for example, at paragraph [0052] of the application as filed.

Claim 20 has been amended to be consistent with claim 19 as amended, and to delete reference to "a propagated signal."

35 U.S.C. § 103 Rejections

Claims 1-20 were rejected under § 103(a) as being unpatentable over Morrill. Applicant respectfully traverses these rejections as follows.

A determination of obviousness under § 103 requires (1) determining the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the pertinent art. Based on these factual inquiries and any secondary considerations, the obviousness or nonobviousness of the subject matter is determined. See MPEP § 2141. Although the prior art references need not teach or suggest all of the claim limitations, Office personnel must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. See *id.* Importantly, any conclusion of obviousness must be supported with some articulated reasoning with some rational underpinning; mere conclusory statements are not sufficient. See *id.*

In the present case, the Office contends, *inter alia*, that all limitations of independent claims 1, 15 and 19 are taught or suggested by Morrill, and that the subject matter of these claims would be obvious to one of ordinary skill in the art. Applicant respectfully disagrees for at least the following reasons.

Claims 1-14

Claim 1 is directed to an account management system including:

an account management server for storing and operating on a plurality of accounts, each account including account user information and an account balance comprising a measurement of communication time,

wherein the account management server is configured to transfer at least a portion of an account balance associated with a first account to a second account.

The Office acknowledges, and Applicant agrees, that Morrill does not use the term “account management server.” The Office states, however, that in view of at least column 1, lines 30-40 and column 2, lines 18-31 of Morrill, “it would be obvious, at the time of the invention, to a person of ordinary skill in the art to determine that the service provider’s central processing unit disclosed in Morrill is functionally equivalent to applicant’s account management server.” Applicant submits, however, that the Office has failed to establish *prima facie* obviousness because (1) Morrill does not teach or suggest all of the limitations of claim 1; and (2) the Office has articulated no reason as to why the differences between Morrill and claim 1 would have been obvious to one of ordinary skill in the art.

First, Applicant submits that Morrill fails to teach or suggest at least:

an account management server for storing and operating on a plurality of accounts, each account including ... an account balance comprising a measurement of communication time,

wherein the account management server is configured to transfer at least a portion of an account balance associated with a first account to a second account,

as recited by claim 1. With respect to the first passage cited by the Office (column 1, lines 30-40), Morrhill discloses:

In accordance with the present invention, a method is used to transfer funds between different accounts including the steps of expanding the function of a service provider's central processing unit to include account and authorization information, entering a function code on the keypad of a cellular phone or other wireless communication device, and sending the function code to the central processing unit. The central processing unit identifies the desired transaction and obtains authorization. The central processing unit determines the accounts involved in the transaction, and confirms completion of the transaction.

With respect to the second passage cited by the Office (column 2, lines 18-31), Morrhill discloses:

Referring in more particularity to FIGS. 1A-1E, the illustrated procedure allows a cellular phone or other wireless communication device to be used to transfer funds between accounts belonging to the same entity/person or to an account belonging to another party. Such transactions could include for example: purchasing a good or service by transferring funds (paying) to a second party's phone or financial account; or transferring funds between a person's credit accounts, from credit to debit or stored-value accounts, to, from, or between bank (saving or checking) accounts. Other activities could include checking balances in financial accounts. Communication takes place between the cellular phone and the mobile telephone service provider's cell antenna and thence via land line to a CPU.

Nowhere in either passage does Morrill teach or suggest "... an account balance comprising a measurement of communication time, wherein the account management server is configured to transfer at least a portion of an account balance associated with a first account to a second account." To the contrary, to the extent that these passages disclose transfers between accounts, the transfers are limited to transfer of funds.

Neither passage teaches or suggests an account balance that includes a measurement of communication time, let alone the transfer of at least a portion of such an account balance from a first account to a second account.

Similarly, Applicant submits that the other passages of Morrill fail to teach or suggest these features. In this regard, Applicant respectfully directs the Office's attention to Examples 1 to 3 disclosed by Morrill. In Example 1 (column 3, line 64 to column 6, line 13), Morrill discloses the use of a cell phone to secure the transfer of money between two parties in lieu of cash. In Example 2 (column 6, line 14 to column 8, line 46), Morrill discloses the use of a cell phone to facilitate parking transactions. In order to pay for parking services, charges may be debited, for example, from a customer's pre-paid parking account, or the funds may be directed to the parking facility operator from another source (e.g., another pre-paid account or a credit card). In Example 3 (column 8, line 47 to column 10, line 6), Morrill discloses the use of a cell phone for the payment of transit fares by, for example, debiting a pre-paid transit account, phone account, or a credit card. In addition to Examples 1 to 3, Morrill discloses the use of a cell phone for paying tolls from a vehicle by transferring funds from a user's account to the tolling authority (column 10, lines 7-55), as well as the use of a cell phone in conjunction with a PC to provide security for purchases made via the Internet or other interactive on-line transaction system (column 10, line 56 to column 12, line 27). Applicant submits that Morrill fails to teach or suggest in any of these passages an account balance that includes a measurement of communication time and the transfer of at least a portion of such an account balance from a first account to a

second account. Rather, as in the passages cited by the Office, Morrhill discloses that the transfers are limited to transfer of funds.

For at least the above reasons, Applicant submits that Morrhill fails to teach or suggest all features recited by claim 1.

Second, in view of the above-identified differences between claim 1 and Morrhill, the Office has failed to explain why these differences would have been obvious to one of ordinary skill in the art. Indeed, the Office has not even addressed this difference, but instead offers the following explanation regarding the obviousness of claim 1:

However, Morrill in at least Column 1, lines 30-40, and Column 2, lines 18-31 discloses a method used to transfer funds between different accounts including the steps of expanding the function of a service provider's central processing unit to include account and authorization information entered from a cellular telephone or other communication device. Therefore, it would be obvious, at the time of the invention, to a person of ordinary skill in the art to determine that the service provider's central processing unit disclosed in Morrhill is functionally equivalent to applicant's account management server.

Even if the Office is correct regarding the alleged teachings of Morrhill (which Applicant does not admit), no reason is articulated as to why the claimed invention would have been obvious in view of the cited passages. See MPEP § 2143 (stating that the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious). Because such reasoning is clearly absent from the Office's explanation, Applicant submits that Office's finding of obviousness is merely conclusory and, therefore, insufficient to support a finding of *prima facie* obviousness.

For at least the above reasons, Applicant submits that the Office has failed to establish a case of *prima facie* obvious based on Morrhill with respect to claim 1. Applicant further submits that claims 2-14 are also not rendered obvious by Morrill at least by virtue of their dependence from claim 1.

Claims 15-20

Independent claim 15 is directed to an account management method including the steps of:

storing a plurality of accounts, each account including account user information and an account balance comprising a measurement of communication time; and

transferring of at least a portion of an account balance associated with a first account to a second account.

Independent claim 19 is directed to a computer-readable medium having instructions stored thereon, which, when executed by a processor, cause the processor to:

store and operate on a plurality of accounts, each account including account user information and an account balance comprising a measurement of communication time; and

authorize a transfer of at least a portion of an account balance associated with a first account to a second account.

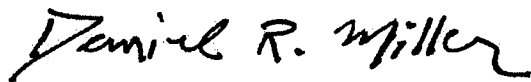
For at least reasons analogous to those cited above with respect to claim 1, Applicant submits that the Office has failed establish a case of *prima facie* obvious based on Morrhill with respect to claims 15 and 19. Applicant further submits that claims 16-18 and claim 20 are also not rendered obvious by Morrill at least by virtue of their dependence from claims 15 and 19, respectively.

Applicant is not otherwise conceding the correctness of the rejection with respect to any dependent claim and wishes to reserve the right to present arguments as may be necessary because features of dependent claims further distinguish the independent claims from the cited reference(s). A detailed discussion of such differences is believed to be unnecessary at this time in view of the Office's failure to satisfy the requirements of *prima facie* obviousness with respect to the independent claims, as explained above.

D. Conclusion

Applicant respectfully requests entry of and a Notice of Allowance for the claims listed above. If the Examiner is of the opinion that the present application is in condition for disposition other than allowance, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below in order that the Examiner's concerns may be expeditiously addressed.

Respectfully submitted,



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